

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JUN 21 2021

AIESHA B. CALLAHAN,

Plaintiff,

v.

EMORY HEALTHCARE, INC.,

Defendant.

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Civil Action

No. 1:18-CV-01367-WMR-JSA

By:  JAMES N. HATTEN, Clerk
Deputy Clerk

**EMERGENCY MOTION FOR A PRELIMINARY RULING
AND/OR
RULING ON PLAINTIFF'S MOTION FOR DEFAULT
FINAL JUDGEMENT**

COMES NOW Plaintiff, Aiesha B. Callahan, Pro Se, pursuant to LR. 7.2(B) and hereby files this Emergency Motion for a Preliminary Ruling and/or Ruling on Plaintiff's Motion for Default Final Judgement. (Doc. 11).

Plaintiff files this motion with support of facts, law and her undersigned declaration as follows:

(1)

On June 19, 2021, Plaintiff emailed Defendant's counsel with notice of intentions to file this Emergency Motion and there was no response in opposition.

(2)

On March 31, 2021, Plaintiff received her 90-Day Notice of Rights to Sue from the Equal Employment Opportunity Commission (“EEOC”), and 90-days from March 31, 2021, is Tuesday, June 29, 2021. Therefore, if this court renders an unexpectant and unjust ruling by dismissing Plaintiff’s Complaint; an emergency ruling is warranted so that Plaintiff could re-file, or pursue other remedies; prior to next week, on June 29, 2021. Because, if Plaintiff does not re-file her suit within 90-days [of] the date [the EEOC’s requisite to sue was issued], re-filing of this claim will be time barred. *See* 42 U.S.C. § 2000e-5(b).

(3)

Plaintiff filed her complaint on April 6, 2021, and according to FRCP 4(m), she has 90-days from that date to re-serve Defendant the Complaint and Summons, and 90-days from April 6, 2021, is July 5, 2021.

And, although Defendant was served on April 12, 2021, and Proof of Service was filed in accordance with FRCP 4(I); if re-service is unexpectantly and unjustly ordered by the court, an emergency ruling would allow Plaintiff time to repeat arrangements and re-serve Defendant prior to Monday, July 5, 2021.

(4)

On May 28, 2021, Plaintiff invited Defendant to Answer her Complaint by email; and filed a Reply to Defendant's Opposition to her Motion for Default Final Judgement, where she asked the court to rescind her Motion under Rule 55(b) and Entry of Default under 55(a) – contingent upon Defendant Answering the Complaint within 21-days from May 28, 2021, which was this past Friday, June 18, 2021. And Defendant did not respond.

(5)

Pursuant to FRCP 12(a)(1)(A)(i), Defendant was required to file and serve an Answer, or Rule 12 Motion within 21-days from the date of Service of the Summons and Complaint; and 21-days from April 12, 2021, was May 3, 2021. And always Defendant has failed to Answer the complaint, failed to file a pre-answer motion under Rule 12, failed to prevent and/or reverse the clerk's entry of default, and Defendants' first move in this case was appearance for the specific purpose of only asking this court to deny Plaintiff's Motion for Default Final Judgement; thereby, (in accordance with Rule 12(h)), has forever waived all defenses under Rule 12(b)(2) through (5).

Thus; even after Defendant appeared and acknowledged proper jurisdiction of this court, it still failed to defend itself after being invited to Answer the Complaint

by June 18, 2021, which further proves that Defendant's default status should remain, and Defendant has made it relatively easy for the court to conclude that Plaintiff's Motion for Default Final Judgement should be granted.

(6)

WHEREFORE, even though all facts and law prove that Defendant's Default status is justified, Plaintiff urges this honorable Court to render an Emergency Preliminary Ruling and/or Ruling on Plaintiff's Motion for Default Final Judgement; prior to exhaustion of her [90-day window of time to re-sue]; which expires, next week on Tuesday, June 29, 2021.

DECLARATION

I, Aiesha B. Callahan, declare under penalty of perjury; in support this Emergency Motion; that I am the Plaintiff of this action, Pro Se, over 21-years of age, competent to testify as to all facts written in my Emergency Motion, and all facts are based on my personal knowledge and experiences.

Respectfully submitted this 21st day of June 2021.



Aiesha B. Callahan
Plaintiff, Pro Se

CERTIFICATE OF COMPLIANCE

Undersigned below, Plaintiff certifies that the foregoing document complies with the type and margin requirements set forth in LR 5.1, using a font type in Times New Roman and point size of 14 count.

CERTIFICATE OF SERVICE

Undersigned below, I hereby certify that, I have this 21st day of June 2021, filed, and served a copy of the foregoing, EMERGENCY MOTION FOR A PRELIMINARY RULING AND/OR RULING ON PLAINTIFF'S MOTION FOR DEFAULT FINAL JUDGMENT, via email to Attorneys for Defendant, as follows:

Lewis Brisbois Bisgaard & Smith LLP.,

John S. Snelling	Toni J. Read
Email: John.Snelling@lewisbrisbois.com	Email: Toni.Read@lewisbrisbois.com

Respectfully submitted this 21st day June of 2021.



Aiesha B. Callahan
Plaintiff, Pro Se
Email: aiesha.callahan@gmail.com